

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICK RONALD HOLLEY,

Plaintiff,

No. CIV S-04-1425 GEB PAN P

vs.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner without counsel, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On June 21, 2005, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days.

1 Plaintiff and defendants have filed objections to the findings
2 and recommendations.

3 In accordance with the provisions of 28 U.S.C.
4 § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a
5 de novo review of this case. Having carefully reviewed the
6 entire file, the court finds the findings and recommendations to
7 be supported by the record and by proper analysis.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The findings and recommendations filed June 21,
10 2005, are adopted in full.

11 2. Defendants' January 14, 2005, motion to dismiss is
12 granted in part.

13 3. All claims against defendant Herrera, except that
14 of retaliation against plaintiff for exercise of First Amendment
15 rights, are dismissed for failure to state a claim.

16 4. Claims against defendants Providence, O'Ran,
17 Mirich, Jako, Veal, Allen and Grannis are dismissed for failure
18 to exhaust administrative remedies.

19 5. Defendant Herrera is required to answer the
20 complaint within thirty days of disposition of the motion to
21 dismiss.

22 Dated: July 22, 2005

23
24 /s/ Garland E. Burrell, Jr.
25 GARLAND E. BURRELL, JR.
26 United States District Judge